

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKCONSIST SOFTWARE SOLUTIONS,  
INC. f/k/a CONSIST INTERNATIONAL,  
INC.,

Plaintiff,

-against-

SOFTWARE AG, INC. and SOFTWARE  
AG,

Defendants;

AND RELATED COUNTERCLAIMS

USDS SDNY  
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ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 10/31/07

Case No. 07-7047 (CM)(FM)

**STIPULATION REGARDING CONDUCT OF  
DECEMBER 12, 2007 BENCH TRIAL**

Plaintiff Consist Software Solutions, Inc. formerly known as Consist International, Inc. ("Consist") and defendants Software AG, Inc., formerly known as Software AG Americas, Inc. ("SAGA") and Software AG ("Software AG") (defendants are collectively "SAG") stipulate as follows:

1. Consist and SAG each waives its right to a trial by jury of any claims triable by jury in this action, and each agrees that all issues shall be tried by the Court without a jury.
2. Consist dismisses with prejudice Counts I, III, IV, V, VI, VIII, IX, X, XI and XII of its Complaint in the matter captioned above (originally filed in the Supreme Court of the State of New York, County of New York as Index No. 602644/2007), reserving only Counts II and VII seeking a declaratory judgment. This Stipulation does not operate to dismiss Consist's claims should any arise or be alleged for any breach by SAG occurring after December 31, 2007.
3. Consist and SAG stipulate that during the time previously scheduled by the Court for a hearing beginning December 12, 2007, they will try to the Court for binding determination the declaratory judgment claims set forth in Consist's Complaint as Counts II and VII, and the declaratory judgment claims set forth in SAG's Counterclaims as Counts II and III, expressly

including SAG's claims that: a) Consist has materially breached the Agreement, and b) SAG is entitled to terminate the Agreement as a result of Consist's material breach. Notwithstanding the foregoing, Consist reserves the right to object to the October 9 and 10, 2007 letters based on timing, validity, and merits.

4. The deadlines set forth in the Court's September 26, 2007 Scheduling Order shall apply, except that the date for designation of any experts and provision of reports is extended to November 9, 2007. The time within which to notice expert depositions is extended to November 16, 2007 and the time to conduct expert depositions is extended to November 23, 2007.

Dated: New York, NY  
October 31, 2007

DUANE MORRIS LLP

By: Hyman L. Schaffer / by permission  
Hyman L. Schaffer  
Fran M. Jacobs  
Brian Damiano  
1540 Broadway  
New York, New York 10036  
(212) 692-1000

Attorneys for Plaintiff Consist Software Solutions, Inc. f/k/a Consist International, Inc.

BAKER & MCKENZIE LLP

By: James David Jacobs / by permission  
James David Jacobs  
Frank M. Gasparo  
Marcella Ballard  
John A. Basinger\*  
1114 Avenue of the Americas  
New York, New York 10036  
(212) 626-4100

Attorneys for Defendant/Counter-Plaintiff Software AG, Inc. and Defendant Software AG

\*admitted pro hac vice

SO ORDERED:

10 - 31 - 07